

**IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
ST. JOSEPH DIVISION**

EMPLOYERS MUTUAL)	
CASUALTY COMPANY,)	
)	
Plaintiff,)	
)	Case No. 06-06023-CV-SJ-NKL
v.)	
)	
NORTHWEST MISSOURI MASONRY,)	
et al.,)	
)	
Defendants.)	

ORDER

Pending before the Court is Plaintiff's Motion for Default Judgment Against Northwest Missouri Masonry (NMM"), Steven K. Spears and Charles R. Spears. The docket reflects that NMM and Stephen K. Sears were served a copy of the summons and complaint in this case on April 29, 2006, and Defendant Charles Sears was served copy of the summons and complaint on May 3, 2006. As of this date, these Defendants have not filed an answer in this case and have not responded to Plaintiff's Motion for Default Judgment (Doc. 29).

Defendant MW Builders urges the Court to make an Entry of Default against NMM and the Spears Defendants rather than entering a Default Judgment. Plaintiff seeks declaratory relief and an entry of Default Judgment against three of the Defendants would adversely affect the rights of the other Defendants. *See e.g., Nautilus Ins. Co. v. I.L.S. General Contractors, Inc.,*

369 F.Supp.2d 906 (E.D. Mich. 2005); *State Farm Mut. Auto. Ins. Co. v. Jackson*, 736 F. Supp. 958 (S.D. Ind. 1990). Plaintiff concedes in its Reply that an entry of default is the better approach at this stage of the litigation.

Defendants Northwest Missouri Masonry, Steven K. Spears and Charles R. Spears have been properly served. They have had over three months to respond to the Complaint. They have had over a month to respond to Plaintiff's Motion for Default. They have failed to do so. The Court therefore finds them to be in DEFAULT. The Clerk is instructed to make an ENTRY OF DEFAULT against these three Defendants in the docket sheet. Damages shall be assessed at a later date when the case is resolved against the remaining Defendants.

IT IS SO ORDERED.

s/ Nanette K. Laughrey
NANETTE K. LAUGHREY
United States District Judge

Dated: August 25, 2006
Jefferson City, Missouri